

SIKKIM



GOVERNMENT

GAZETTE

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No. 41

**GOVERNMENT OF SIKKIM
HOME DEPARTMENT
GANGTOK**

No. 20/Home/2025

Dated: 07/03/2025

NOTIFICATION

Whereas, the State Government, in exercise of powers conferred by section 20 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been pleased to establish the Directorate of Prosecution in the State under the administrative control of the Home Department, Government of Sikkim.

Now therefore, in pursuance of section 20 of Bharatiya Nagarik Suraksha Sanhita, 2023, the State Government hereby makes the following rules to formulate the establishment of Directorate of Prosecution and to regulate the method of recruitment to the posts of Director, Deputy Director, Public Prosecutor, Special Public Prosecutor, Additional Public Prosecutor, Assistant Director and Assistant Public Prosecutor in the Directorate of Prosecution under Home Department, Government of Sikkim, namely:-

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| Short title,
extent,
commencement. | 1. (1) These rules may be called the Directorate of Prosecution, Establishment Rules, 2025.
(2) They shall extend to the whole of Sikkim;
(3) They shall come into force at once. |
| Application. | 2. These rules shall apply to the posts specified in the Schedule annexed to these rules. |
| Definitions. | 3. In these rules, unless the context otherwise requires,-
(a) "Director" means the Director in the Directorate of Prosecution;
(b) "effective hearing" means the day on which any argument is heard, appeal is submitted or admitted, revision or application for any proceeding is admitted, hearing of bail application, issues are framed, witness is examined, or cross-examination or charge framed. |

- (c) "Government" means the Government of Sikkim;
- (d) "non-effective hearing" means the date on which the case or appeal or revision or application or proceeding is adjourned or written statement of affidavit or application is filed in the Court or the date for supply of copies;
- (e) "notification" means a notification published in the Official Gazette;
- (f) "Prosecuting officers" means and includes Public Prosecutor, Additional Public Prosecutor, Special Public Prosecutor and Assistant Public Prosecutor appointed under these rules;
- (g) "Selection Committee" means the committee constituted for selection of officers for appointment in the Directorate of Prosecution under these rules.

**Constitution of
Directorate of
Prosecution.**

- 4. (1) The Directorate of Prosecution shall be headed by Director of Prosecution and shall consist of the following officers, namely:-
 - (a) Director of Prosecution;
 - (b) Deputy Director of Prosecution;
 - (c) Public Prosecutor;
 - (d) Special Public Prosecutor;
 - (e) Additional Public Prosecutors;
 - (f) Assistant Director of Prosecution;
 - (g) Assistant Public Prosecutor.
- (2) The Director of Prosecution shall function under the administrative control of the Home Department, Government of Sikkim.
- (3) The Deputy Director of Prosecution or Assistant Director of Prosecution shall be subordinate to the Director of Prosecution and every Assistant Director of Prosecution shall be subordinate to the Deputy Director of Prosecution;
- (4) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government to conduct the case in the High Court of Sikkim shall be subordinate to the Director of Prosecution;
- (5) Every Public Prosecutor and Additional Public Prosecutor appointed by the State Government to conduct the case in the District Courts shall be subordinate to the Director of Prosecution and Deputy Director of Prosecution and every Assistant Public Prosecutor appointed by the State Government to conduct the case in the District Courts shall be subordinate to the Director of Prosecution, Deputy Director of Prosecution and Assistant Director of Prosecution.

**Appointment of
Director of
Prosecution,
Deputy Director
of Prosecution
and Assistant
Director of
Prosecution.**

5. (1) The State Government shall appoint the Director of Prosecution, Deputy Directors and Assistant Directors of Prosecution after obtaining the recommendations of a Selection Committee consisting of,-
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| (a) Chief Secretary | — Chairperson; |
| (b) Director General of Police | — Member; |
| (c) Additional Chief Secretary or Secretary,
Home Department | — Member; |
| (d) LR cum Secretary, Law Department | — Member |
- (2) The State Government may also co-opt a person(s) who is an expert in the field of law to be the member of the selection committee.
- (c) A person shall be eligible to be appointed as a Director of Prosecution or a Deputy Director of Prosecution, if he has been in practice as an advocate for not less than fifteen years or is or has been a Session Judge;

**The powers
and functions
of the Director
of Prosecution,
Deputy Director
of Prosecution
and the
Assistant
Director of
Prosecution
shall be as
under, namely,**

6. (a) the Director of Prosecution shall monitor all the criminal cases in which offences are punishable for ten years or more, or with life imprisonment, or with death;
- (b) the Director of Prosecution shall ensure the expeditious disposal of cases;
- (c) the Director of Prosecution shall give opinion on filing appeals;
- (d) the Deputy Director of Prosecution shall examine and scrutinise the police report and monitor the cases in which offence are punishable for seven years or more, but less than ten years;
- (e) the Deputy Director of Prosecution shall ensure the expeditious disposal of cases in which offences are punishable for seven years or more;
- (f) the Assistant Director of Prosecution shall monitor the cases in which offences are punishable for less than seven years.

**Appointment
of Public
Prosecutors
and Additional
Public
Prosecutors,**

7. (1) The State Government shall, after consultation with the High Court of Sikkim, appoint a Public Prosecutor, and may also appoint one or more Additional Public Prosecutors for conducting in such Court, any prosecution, appeal or other proceedings on behalf of the State of Sikkim;
- (2) The State Government shall appoint Public Prosecutors and may also appoint one or more Additional Public Prosecutors for the purpose of conducting any prosecution, appeal or other proceedings on behalf of the State Government for the district:

Provided that the Public Prosecutor or Additional Public Prosecutor appointed for one district may be appointed also to be a Public Prosecutor or an Additional Public Prosecutor, as the case may be, for another district;

- (3) The State Government may appoint, for the purposes of any case or class of cases, a person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor.
- (4) The State Government shall appoint Public Prosecutor, Special Public Prosecutors and Additional Public Prosecutors for the district under these rules by inviting applications from the eligible advocates and through selection by a Selection Committee to be constituted by the State Government for the purpose.
- Qualification for Appointment as Public Prosecutor or Additional Public Prosecutors.** 8. (1) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under these rules only if he has been in practice as an advocate for not less than seven years.
- (2) No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears in the panel of names prepared by the District Magistrate of the respective district under sub-section (4) of section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023.
- (3) The District Magistrate of the concerned district shall, in consultation with the Sessions Judge of the respective district, prepare a panel of names of persons, who are, in his opinion fit to be appointed as Public Prosecutors or Additional Public Prosecutors for the district.
- Appointment of Assistant Public Prosecutors.** 9. (1) The State Government shall appoint in every district one or more Assistant Public Prosecutors for conducting prosecutions in the Courts of Magistrates.
- (2) The State Government shall appoint Assistant Public Prosecutor for the district for conducting prosecutions in the Courts of Magistrates under these rules by inviting applications from the eligible advocates and through selection by a Committee to be constituted by the State Government for the purpose.
- Terms of office of Public Prosecutor, Special Public Prosecutor, Additional Public Prosecutor and Assistant Public Prosecutor.** 10. Every appointment made under these rules shall have a maximum tenure of five years from the date of appointment, which may be extended for such period as may be decided by the State Government.
- Minimum Age Limit,** 11. (1) The minimum age limit for appointment as Director of Prosecution and Deputy Director of Prosecution shall be 35 years of age.
- (2) The minimum age limit for appointment as Assistant Director of Prosecution shall be 30 years of age.

- Eligibility.** 12. No person shall be eligible for appointment under these rules, unless,-
- (a) he is a citizen of India;
 - (b) he is the holder of Sikkim Subject Certificate/ Certificate of Identification;
 - (c) he is holder of degree in law from a recognised college/ university;
 - (d) he is registered as an advocate in the Bar Council of the State;
 - (e) he is able to communicate in English, Nepali and any other language of the State.
 - (f) he is of sound mind;
- Appointment of Court Inspector.** 13. On commencement of these rules, any officer appointed and posted as the Court Inspector shall be deemed to be on deputation as Court Inspector under the Directorate of Prosecution. He shall report to the Director of Prosecution and shall be under the administrative control of the Directorate of Prosecution.
- Appointment to be contractual.** 14. Every appointment made under these rules shall be a contractual appointment and these rules shall form part of the terms and conditions of the contract in addition to the other terms and conditions of the appointment order.
- Resignation and Removal.** 15. (1) A person appointed under these rules can resign by giving one month prior notice to the Chief Secretary, Government of Sikkim. His resignation shall not be effective till it is accepted or till expiry of three months from the date of receipt of the resignation, after which the resignation will be effective automatically.
- (2) The State Government can dispense with the service of the person appointed under these rules on the ground of unsatisfactory performance, proved misbehaviour or incapacity or if the State Government deems it necessary and expedient to do so in the public interest;
- (3) Notwithstanding anything in sub-rule 2, the State Government may by order remove from office any person appointed under these rules, if a person,-
- (a) is adjudged an insolvent; or
 - (b) engages during his term of office in any paid employment outside the duties of his office; or
 - (c) is unfit to continue in office by reason of infirmity of mind or body; or
 - (d) is of unsound mind and stands so declared by a competent court; or

- (e) is convicted and sentenced to imprisonment for an offence which in the opinion of the State Government involves moral turpitude:

Provided that the State Government shall not dispense with the service of the person appointed under these rules on any of the grounds mentioned in sub-rule (2) and (3) of rule 15 without giving him an opportunity of hearing.

The terms, conditions, salaries and allowances of persons appointed under these rules.

16. The salaries and allowances payable to, and other terms and conditions of service of, a persons appointed under these rules shall be such as may be prescribed by the State Government through separate notification or order to be issued by the State Government from time to time.

Appointment of Joint Director (Administration) and other staff of the Directorate of Prosecution

17. The State Government shall make available to the Directorate of Prosecution through deputation-
- (a) an officer not below the rank of Deputy Inspector General of Police from amongst the officer of the Sikkim Police who has a field experience of not less than 6 (six) years in criminal investigation;and
 - (b) such police and staff of appropriate rank as may be necessary for the efficient performance of the functions of the Directorate of Prosecution.

Qualification, power and functions of the Joint Director (Administration).

18. (1) A person shall be eligible to be appointed through deputation as Joint Director in the Directorate of Prosecution,-
- (a) if he is in the rank of Deputy Inspector General of Police;
 - (b) he has field experience of not less than 6 (six) years in criminal investigation;
 - (c) he has knowledge of law;
- (2) The Joint Director shall be responsible for overall office administration, proper record keeping of the case file in the Directorate of Prosecution;
- (3) The Joint Director shall examine and scrutinize the police report and shall also examine the charge-sheets before the same is filed in the Court of Law.

Power to Relax.

19. Where the State Government is of the opinion that it is necessary or expedient to do so, it may, by order and for reasons to be recorded in writing, relax any provisions of these rules with respect to any class or category of person.

Saving and validation of appointment.

20. Anything done or any action taken by the State Government or any appointments of Public Prosecutors, Additional Public Prosecutors and Assistant Public Prosecutors under the Law Officer (Terms and

Conditions) Rules, 2009 shall be deemed to have been made under the corresponding provisions of these rules.

Government Advocate or Standing Counsel to be governed by the Law Officer (Terms and Condition) Rules, 1995.

21. Any person appointed as Government Advocate or Standing Counsel under the Law Officer (Terms and Conditions) Rules, 1995 for any State Government Department or any Institutions shall be continued to be govern by the said rules.

Interpretation.

22. Where any question arises as to the interpretation of these rules, the Law Department may, with the approval of the State Government, interpret any of the provisions of these rules and the decision made therein shall be final.

By Order and in the name of the Governor,

**(R. Telang) IAS,
Chief Secretary,
Government of Sikkim,
File No. Home/Confdl/127/2021**

SCHEDULE

(See rules 5, 7, 8 and 9)

Sl. No.	Name of the Post	Eligibility Criteria	Method of Appointments
1	Director	has been in practice as an advocate for not less than fifteen years or has been a Session Judge	On recommendation of the Selection Committee constituted under rule 5 of said Rules.
2	Joint Director	A Police Officer in the rank of Deputy Inspector General of Police having a field experience of not less than 6 years in criminal investigation.	On deputation from the Police service.
3.	Deputy Director	has been in practice as an advocate for not less than fifteen years or has been a Sessions Judge	On recommendation of the Selection Committee constituted under rule 5 of the said Rules.
4	Assistant Director	has been in practice as an advocate for not less than seven years or has been a Magistrate of First Class	On recommendation of the Selection Committee constituted under Rule 5 of the said Rules.
5	(1) Public Prosecutor or Additional Public Prosecutor (2) Special Public Prosecutor	has been in practice as an advocate for not less than seven years. has been in practice as an advocate for not less than ten years.	On recommendation of the Selection Committee to be constituted under sub rule 4 of rule 7 of the said Rules. Note: 1) Public Prosecutor or Additional Public Prosecutors for conducting cases in the High Court shall be done in consultation with the High Court prescribed under sub rule (1) of rule 7. 2) Public Prosecutor or Additional Public Prosecutor for conducting cases in District Court shall be from a panel of names prepared by the District Magistrate in consultation with the Session Judge of the respective District prescribed under sub rule (2) of rule 8.
6	Assistant Public Prosecutor	has been in practice as an advocate for not less than seven years.	Appointment on the recommendation of the Selection Committee as prescribed under sub rule (2) of rule 9.